

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

THE CAMPAIGN FOR BUFFALO HISTORY,
ARCHITECTURE & CULTURE, INC.

Petitioner,

vs.

**AFFIDAVIT OF
THOMAS J. MCCARTHY**

Civil Action No.: 1:12-cv-00605 (WMS)

BUFFALO AND FORT ERIE PUBLIC BRIDGE
AUTHORITY,

Respondent.

STATE OF NEW YORK)
)
) SS:
COUNTY OF ERIE)

THOMAS J. MCCARTHY, being duly sworn, deposes and says:

1. I am the Chief of Security for the Buffalo and Fort Erie Public Bridge Authority (“Authority”). I have personal knowledge of the facts stated in this affidavit.

2. I submit this affidavit in support of the Authority’s opposition to Petitioners’ motion for a preliminary injunction and temporary restraining order prohibiting the planned demolition of structures on the various properties owned by the Authority on Busti Avenue, including 757, 765, 771, 777, 783, 791 & 793 Busti Avenue (“Busti Avenue Properties”), and the restoration of those properties as landscaped green space. The Authority has just recently acquired the property at 775 Busti Avenue, which is also planned for demolition.

3. I am a retired member of the City of Buffalo Police Department (“Buffalo Police”), where I worked in various capacities for almost thirty-five (35) years. I began my career with the Buffalo Police “walking the beat.” Later, my assignments included the Tactical Patrol Unit (working in violent crime areas), the Street Crime Unit, as well as the Burglary,

Robbery, Vice, and Narcotics Squads. For my last twenty (20) years with the Buffalo Police, I was assigned as a detective in the Auto Theft Squad, C District Detectives, and I was also a member of the SWAT Team. During my career with the Buffalo Police, I trained with the FBI, the New York State Police, Erie County Sheriff, and the U.S. Army at Fort Drum, New York.

4. In 1990, I began working for the Authority as a part-time security guard. I continued to work for the Authority in that capacity until my retirement from the Buffalo Police in 2003, when I became the Authority's Chief of Security. Currently, the Authority's security force consists of myself and four other off-duty officers with the Buffalo Police.

5. At the time I was first hired by the Authority, we had "crack heads" and hookers coming onto the Authority's property and attempting to steal items off the trucks, as well as begging for money.

6. It was these types of problems that led the Authority to hire off-duty police officers, such as myself, as a security force to help combat criminals and trespassers.

7. Over the years, the Authority's security force has made numerous arrests related to criminal activities. In fact, I personally arrested one criminal forty-seven (47) times.

8. These types of criminal activities have been a source of endless problems with the vacant boarded up Busti Avenue Properties that the Authority owns. Over the last fifteen or so years, we have had ongoing criminal activities at these properties with break-ins, squatters, vandalism and prostitution.

9. In particular, the Authority has had to deal with squatters at 771 and 777 Busti on numerous occasions.

10. In some cases, the trespassers apparently were engaged in "Devil Worshipping," as we found candles and weird markings burned or painted on the floors.

11. Aluminum gutters and copper piping have been stolen from all of these properties at one time or another.

12. We have had hookers bring their "johns" into the back yards and driveways of these properties (particularly 777 Busti), and then leave their "trash" behind.

13. I recall one day when a stolen car was driven behind the Busti Avenue properties and crashed into a tree at the duplex property (765 Busti).

14. On one occasion, I caught two juveniles who had broken into 777 Busti Avenue as they were skipping school one winter day. I tracked their footprints in the fresh snow all the way down to Porter Avenue and arrested them.

15. The Authority has been forced to take a proactive approach in responding to these issues at the Busti Avenue Properties. As a result, the Authority's security force vigilantly patrols these properties.

16. The security force is careful to ensure that the buildings are as secure as possible in order to keep out trespassers and criminal elements. When necessary, the Authority's maintenance department is called to replace plywood or otherwise secure the buildings. These kinds of repair calls are routine, and consume many man-hours and materials (plywood, etc.).

17. Significantly, the Authority's efforts to keep these buildings secure is not just a matter of keeping vandals from damaging the buildings and keeping criminal elements from using the Busti Avenue Properties for illegal activity. It is also important to keep people out of these buildings as a matter of public safety because some of the buildings have been in bad shape for some time and it would be dangerous for anyone to enter.

18. Specifically, the building at 771 Busti, which has experienced break-ins, vandalism and squatters, is particularly dangerous and a major safety concern. The roof of that structure was rotted through before the Authority even purchased it, and over the years, parts of

the interior floors and ceilings have collapsed. With the structure in such poor condition, I believe that there is a serious potential for trespassers to be injured.

19. In addition to requiring the time and resources of the Authority's security force, the Busti Avenue Properties have been a focus of the Buffalo Police, who assist the Authority with routine patrols of the area.

20. The Buffalo Police have also been active in combating criminal activities at the Episcopal Church Home, which is located immediately to the north of the Busti Avenue Properties.

21. In recent years, the immediately neighboring former Episcopal Church Home has suffered from similar vandalism and trespassing, and this vacant property is under constant attack by the criminal element. Over the last year, the building has been stripped of all plumbing, aluminum gutters and electric wiring. The building interior has been vandalized and there are so many broken windows on the property that it would be difficult to count them all. At one point, a man's body was found in the stair well of the Episcopal Church Home. It was determined that the man died of an overdose with a needle stuck in his arm.

22. As the above discussion demonstrates, the Busti Avenue Properties (and the similar neighboring Episcopal Church Home) have been a significant attraction for criminal activity in the area. The neighborhood has suffered from criminal activities occurring at the Busti Avenue Properties for a long time, and the properties have required vigilant attention by the Authority's security force and the Buffalo Police. Securing these properties and keeping criminal element out is a constant challenge.

23. It is my opinion that the neighborhood and the Authority will be greatly benefited by demolition of the Busti Avenue Properties and their replacement with green space.

It will help reduce criminal activity, improve the overall safety of the neighborhood, and eliminate an unnecessary policing burden on the Buffalo Police and the Authority.

s/ Thomas J. McCarthy
Thomas J. McCarthy

Sworn to before me this
2nd day of July 2012.

s/ Marlene J. Lamancuso
Marlene J. Lamancuso
Notary Public
State of New York
Qualified in Erie County
My Commission Expires 6/30/2015

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